



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

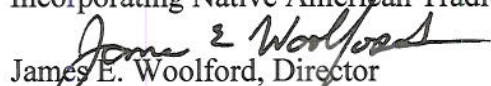
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OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

OSWER-9200.0-66

MEMORANDUM

SUBJECT: Transmittal of Amendments to Superfund Hazard Ranking System Guidance Incorporating Native American Traditional Lifeways

FROM: 
James E. Woolford, Director
Office of Superfund Remediation and Technology Innovation

TO: Superfund National Policy Managers, Regions 1 - 10

Purpose

The attached document amends the November 1992 Hazard Ranking System (HRS) Guidance Manual (EPA 540-R-92-026, November 1992) by adding examples, consistent with the HRS, on ways Native American lifeways can be considered under the HRS; it does not otherwise supersede or change the guidance. This will help the Superfund program to better recognize and account for Native American traditional lifeways in the National Priorities List (NPL) process.

Background

In 1998 the Assistant Administrator of EPA's Office of Solid Waste and Emergency Response (OSWER) agreed to examine technical scoring guidance for the HRS, a mathematical model used to determine site eligibility for the NPL. This examination would identify ways in which the HRS Guidance could better take into account Native American cultural practices (traditional lifeways). The Office of Inspector General, in a 2004 evaluation report on the Superfund Tribal Program, also recommended HRS and risk assessment guidance more appropriately consider tribal cultural practices.

Implementation

When the HRS Guidance Manual was first developed over a decade ago, the preparers did not explicitly consider using Native American cultural examples. However, there are a number of ways in which EPA's HRS Guidance can appropriately consider traditional lifeways. Amendments to the 1992 HRS Guidance Manual follow as an attachment. In these amendments we present examples, consistent with the HRS, of some of the ways site assessors can consider Native American traditional lifeways when developing HRS scores.

Encourage Active Tribal Involvement

Regional Superfund staff should follow the consultation procedures presented in “Consulting with Indian Tribal Governments at Superfund Sites: a Beginner’s Booklet” (<http://www.epa.gov/superfund/partners/oerr/stsi.htm>), OSWER 9200.3-42, November 2006. Staff should make other personnel working in site assessment aware of the guidance as well. Further, EPA Regional assessment personnel should involve interested tribes in assessment and potential listing activities, since tribes can be a valuable source of information. As the consultation booklet says: “EPA is better able to fulfill its responsibility to ‘protect human health and the environment’ if the Agency utilizes the tribal consultation process by taking advantage of the insight and knowledge tribal governments can provide.”

Limitations of this Guidance

Several tribes have provided feedback on several concerns that unfortunately cannot be addressed in these amendments.

- **Tribal Populations** - Small and/or rural tribal populations believe they are at a disadvantage in the HRS formula provided at 40 CFR 60, Appendix A. They believe that risks posed to an entire reservation or tribe, regardless of number, should have greater weight than what the current HRS provides. Addressing this concern would require a regulatory change to the HRS, which is beyond the scope of this guidance.
- **Potential scoring misperception** – There was a perception that sites with higher HRS scores are always riskier and will be cleaned up sooner than sites with lower scores. This is not true. The HRS is not a risk assessment and a site’s HRS score does not determine risk. Moreover, the HRS score does not determine site priority for EPA. It is usually only used to document the eligibility of a site for inclusion on the NPL.

Conclusion

EPA should consider, to the extent allowed under the HRS, Native American traditional lifeways when assessing a site for listing. Further, Native Americans should be aware that there are many other options that may be available to address environmental problems. Other programs within OSWER, such as Superfund removal, brownfields cleanup, solid waste, underground storage tanks or oil spill prevention and cleanup, may be appropriate mechanisms for reducing the human health and ecological risks on tribal lands. Similarly, programs under other Federal agencies, such as those of trustee agencies, may be able to perform response activities.

Contact

For additional information or questions concerning this guidance amendment, please contact me or have your staff contact Robert Myers, the Superfund Headquarters Tribal Coordinator, at (703) 603-8851.

Attachments

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